

# BEST AVAILABLE COPY

**NOTE:** 37 CFR 1.80 permits the filing of a declaration only if the prior application was complete as set forth in 37 CFR 1.51(a), namely, the prior application comprised at least (1) a specification, including a claim or claims; (2) a declaration; (3) drawings when necessary; and (4) the prescribed filing fee. Accordingly, as presently worded, 37 CFR 1.80 does not permit this procedure to be used where the prior application is pending but only the processing and retention fee required by 37 CFR 1.21(f) is paid or where the declaration was not filed.

## 1. Copy of Prior Application as Filed Which Is Attached

**NOTE:** Under 37 CFR 1.80 practice signing and execution of the application by the applicant may be omitted provided the copy is supplied by and accompanied by a statement by the applicant or his or her attorney or agent that the application papers comprise a true copy of the prior application as filed and that no amendments referred to in the declaration filed to complete the prior application introduced new matter therein.

**NOTE:** This statement need not be verified if made by an attorney registered to practice before the PTO. (37 CFR 1.607(j)).

I hereby verify that the attached papers are a true copy of what is shown in my records to be the above identified prior application, including the oath or declaration originally filed (37 CFR 1.80).

The copy of the papers of prior application as filed which are attached are as follows:

- 42 page(s) of specification
- 23 page(s) of claims
- 1 page(s) of abstract
- 6 sheet(s) of drawing

(Also complete 5 below if drawings are to be transferred)

- 2 pages of declaration and power of attorney

If the copy of the declaration being filed does not show applicant's signature indicate thereon that it was signed and complete the following:

- In accordance with the indication required by 37 CFR 60(b) my records reflect that the original signed declaration showing applicant's signature was filed on \_\_\_\_\_
- the amendment referred to in the declaration filed to complete the prior application and I hereby state, in accordance with the requirements of 37 CFR 1.60(b), that this amendment did not introduce new matter therein.

## 2. Amendments

**WARNING:** "The claim of a new application may be finally rejected in the first Office action in those situations where (1) the new application is a continuing application of, or a substitute for, an earlier application, and (2) all the claims of the new application (a) are drawn to the same invention claimed in the earlier application, and (b) would have been properly finally rejected on the grounds or art of record in the next Office action if they had been entered in the earlier application." MPEP § 708.07(c).

- Cancel in this application original claims 2-50, \_\_\_\_\_ of the prior application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes.)
- A preliminary amendment is enclosed. (Claims added by this amendment have been properly numbered consecutively beginning with the number next following the highest numbered original claim in the prior application.)

**NOTE:** Only amendments reducing the number of claims or adding a reference to the prior application (Rule 1.76(a)) will be entered before calculating the filing fee and granting the filing date. 37 CFR 1.607(j).

**NOTE:** "When filing under Rule 1.80 retain at least one original claim from the prior application to assure a complete application." Notice of March 3, 1988 (1084 O.G. 37-36).

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